



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



No.D D (L-II)/SPPRA/CMS-3863/2022-23/1201

Karachi, dated 02 July, 2023

To,

The Executive Engineer,
Karachi Development Authority,
KARACHI.

**Subject: DECISION OF THE REVIEW COMMITTEE OF SINDH PUBLIC
PROCUREMENT REGULATORY AUTHORITY**

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the decision of Review Committee meeting held on 21.06.2023 against Review Appeal submitted by M/s MAFHH Enterprises on NIT No T01612-22-0022 for your information.

(ABDUL JABBAR SHAIKH)
LEGAL COORDIANTOR

A copy is forwarded for information and necessary action to:

1. The Director General, Karachi Development Authority (KDA), Civic Centre, Karachi.
2. The P.S to Secretary to Government of Sindh, Local Government Department.
3. Assistant Director (I.T), SPPRA (with an advice to post the decision on the Authority's website in terms of Rule-32(11) of the SPP Rules, 2010).
4. The Chairperson / Members of Review Committee (All)
5. M/s MAFHH Enterprises D-14/1, Block-B North Nazimabad, Karachi (the Appellant).



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY
AUTHORITY



**Decision of the Review Committee of SPPRA under Rule-32 of
the SPP Rules, 2010 held on 21.06.2023**

M/s MAFHH Enterprises..... the Appellant

V/S

Karachi Development Authority (KDA) the Procuring Agency

1. Introduction:

1.1. Karachi Development Authority (KDA) vide NIT No.EE/ED/KDA/2023/75 dated 10.4.2023 invited bids on Single Stage - Single Envelope through publication in newspapers and uploaded on SPPRA website at Serial No. T01612-22-0022 for four works.

1.2. M/s MAFHH Enterprises submitted a complaint to the CRC vide letter dated 22.5.2023 against Work No. 2 of the said NIT (ADP 2001) i.e. *Construction of road and installation of paver blocks in areas of UC-2 (Manzoor Colony No. 1) and UC-5 Mehmoodabad District East Karachi.*

1.3. Meeting of CRC was not convened within the stipulated time period provided in the Rules. Therefore, complainant lodged a Review Appeal vide letter dated 31.05.2023 to the Review Committee under Rule-31(5) of the SPP Rules, 2010.

1.4. The appellant has also filed a CP in Honorable High Court of Sindh. Meanwhile he has submitted Review Appeal to the Review Committee.

2. Version's of Complainant and Procuring Agency:

2.1. Meeting started with recitation of verses from the Holy Quran. After that the Chair welcomed the participants and invited the complainant and representative of the Procuring Agency to explain their versions one by one.

Complainant's Version:

2.2. Mr. Yasir Anees, Proprietor M/s MAFHH Enterprises informed to the Committee that he had participated for Work No. 2 of the NIT (ADP No. 2001 of 2022-23). He claimed that he had

1/4

quoted the rates under 20% from the Engineer's estimate but the Procuring Agency in the Bid Evaluation Report uploaded on SPPRA Website have recommended for award of contract to higher bidder.

2.3. He further claimed that the Procuring Agency has prepared wrong Engineer's Estimates. He stated that instead of Engineer's Estimates, the PA has mentioned the cost of PC-I in the NIT which is not correct. He added that there is variation in the quantities mentioned in PC-I and Bidding Documents (BOQ) but cost of both documents is same which create doubts. He claimed that his bid would be lowest if compared with the quantities mentioned in the Bidding Documents.

2.4. The complainant also claimed that the procuring agency has changed the scope of work from the approved PC-I.

2.5. He claimed that he had requested for clarification before submission of the bid on this issue.

Procuring Agency's Version:

2.6. Mr. Tariq Rafi, Superintendent Engineer, KDA informed that PC-I has been approved from the competent forum on rough cost basis. The detail design to be prepared later on for the calling the tender. The cost estimates / engineering estimates to be prepared accordingly. The quantities of BOQ may vary from PC-I. The technical sanction to be accorded and tenders to be called. So this similar practice adopted in this NIT. However, he explained that it is not necessary that PC-I cost and Engineering Estimate should be different in every scheme but these two can be the same.

2.7. He also explained that bid of the appellant was compared with the engineering estimates mentioned in the NIT / bidding documents found that his bid was 20.332457% below the engineering estimates, hence, his bid was rejected as per clause 11.3.4 of SPPRA regulations for Works.

2.8. He further informed that all codal formalities have been completed and Administrative Approval, Technical Sanctions have been obtained as per procedures and rules in vogue and there is no violation of Rules in the procurement process.

2.9. Representative of the PA informed that the appellant had submitted three letters dated 10.5.2023 for clarification on the estimated cost of NITs reference No. T01612-22-0021, T01612-22-0027, T01612-22-0028 but clarification on the instant NIT (No. EE/ED/KDA/2023/75 dated 10.4.2023 and SPPRA website Serial No. T0612-22-0022) before submission of bid. However, when he came to know that his bid has been rejected as per Rules, then he raised unnecessary objection which does not seems appropriate. Further, he has



submitted bid duly signed and stamped on each page which shows that he agreed with contents of the bidding documents.

2.10. He requested that the appeal of the appellant may be rejected.

3. Proceedings of the Review Committee:

3.1. Members of the Committee asked from the representative of the Procuring Agency regarding non-convening of the meeting of the CRC within stipulated time. Representative of the PA replied that they have not received any complaint to the CRC.

3.2. The Committee also discussed that as per SPP Act, 2009, the SPPRA has been established to regulate public procurement of goods, services and works in the public sector. It was also discussed that SPP Rule, 2010 provides mechanism for procurement process i.e. from publication of NIT on SPPRA Website till the award of contract. Accordingly, the RC is responsible to review the procurement process only, in case of any appeal. It is not prerogative of SPPRA / Review Committee to check approvals / sanctions / PC-I and any other document. Besides, it is not the responsibility of the RC to intervene in the technicalities / estimates prepared by the experts of the procuring agency. It is the responsibility of the PA to complete all codal formalities prior to initiate the procurement process.

3.3. The Committee also discussed that as per clause IB.18.5 "Format and signing of Bid" of Standard Bidding Documents notified by SPPRA, it is mentioned that bidders shall signed and stamped each and every page of the bidding documents while submitting the bid which means he agreed with terms and conditions and other information mentioned in the bidding documents.

3.4. The Committee also discussed that as per Rule-23(1) of the SPP Rules, 2010 a bidder has an opportunity to obtain clarification on contents of the bidding documents from the procuring agency in writing, provided the PA received such clarification from the bidder at least five calendar days prior to the date of opening of bid. But in the instant NIT bidder failed to obtain clarification as per Rules as clarified by the Procuring Agency. The complainant has not submitted any proof of obtaining clarification on the instant NIT before the Committee.

4. Observations of the Review Committee:

4.1. The RC was not satisfied from the reply of PA regarding non-convening of CRC as it is their responsibility to redress the grievance before award of contract as per Rules.

4.2. The RC observed that PA has not convened CRC meeting in timely manner and awarded the contract without final adjudication by the RC as the complaint stands transfer to the RC under Rule-31(5) of the SPP Rules, 2010.



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3/4


4.3. The appellant failed to sought clarification under Rule-23(1) of the SPP Rules, 2010 and submitted the bid hence, objection on contents of Bidding Documents after submission of bids have no weight.

4.4. RC also observed that PA has rejected the bid of the appellant as per Clause 11.3.4 of SPPRA Regulations for Works as bid of the appellant was more than 20% below the Engineer's estimates.


Decision of the Review Committee:

After due deliberation, the Review Committee unanimously decided to;

- 1. Reject the appeal on the grounds that appellant's bid had been rejected by the Procurement Committee in accordance with Clause 11.3.4 of SPPRA Regulations for Works.*
- 2. Declare the instant procurement as Mis-Procurement in terms of Rule-32 (7)(g) on violation of Rule-31(7) of the SPP Rules, 2010 as the PA had failed to convene the meeting of CRC and decide the Complaint within stipulated time and award the contract without final adjudication by the Review Committee.*
- 3. Refer the matter to the head of department of the procuring agency for initiation of disciplinary action against the officers / officials of the procuring agency responsible for Mis-Procurement.*




(Manzoor Ahmed Memon)
Member SPPRA Board
(Member)



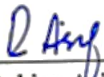
(Engr. Syed Muhammad Shakaib)
Independent Professional
(Member)



(Syed Adill Gilani)
Member SPPRA Board
(Member)



(Khair Muhammad Kalwar)
Special Secretary
Planning & Development Department
(Member)



(Rubina Asif)
Managing Director, SPPRA
(Chairperson)